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7	UNITED STATES DISTRICT COURT	
8	CENTRAL DISTRICT OF CALIFORNIA	
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10	ADRIAN DAMICO MOON,) No. CV 15-7126 SVW (FFM)
11	Petitioner,	ORDER:
12	v.	(1) DISMISSING PETITION;
13	KIM HOLLAND, CEO/WARDEN,) (2) DENYING CERTIFICATE OF) APPEALABILITY; AND
14	Respondent.) (3) REOUIRING PRE-FILING
15) APPROVAL OF ANY PETITION CHAIL ENGING THE CONVICTION
16		OR SENTENCE IN LOS ANGELES SUPERIOR COURT CASE NO.
17) BA362256
18	On June 18, 2013, this Court entered an order dismissing petitioner's fourth	
19	petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 challenging the	
20	same conviction sustained by petitioner in Los Angeles Superior Court case no.	
21	BA362256 with prejudice. Because petitioner had persisted in filing additional	
22	habeas petitions challenging the same conviction despite the Court's dismissal	
23	with prejudice of the prior petitions for lack of jurisdiction, the Court order	
24	included the following warning to petitioner:	
25	Petitioner is advised that, if he files or attempts to file any	
26	further document in this district that reasonably can be	
27	construed as an attempt to challenge the BA362256 Conviction,	
28	he will be found to be in civil contempt and will be sanctioned	

appropriately, including, but not limited to, by the entry of a prefiling order.

Order: Dismissing Petition for Writ of Habeas Corpus with Prejudice; and Denying Certificate of Appealability, filed June 18, 2013 in Case No. CV 13-4290.

Notwithstanding the foregoing, on September 9, 2015, petitioner filed another habeas petition challenging the same BA362256 conviction (Petition, paragraphs 1 and 5). As a result, the Court issued an order requiring petitioner to show cause, if any he had, why he should not be held in civil contempt and sanctioned appropriately for abuse of the writ. Petitioner did not respond to the order to show cause.

It has been found previously, and is not disputed, that petitioner was discharged from probation on the conviction entered in BA362256 on September 9, 2010; that that discharge terminated any significant restraint on petitioner arising from the BA362256 conviction; that petitioner's present incarceration stems from state criminal convictions distinct from the BA362256 conviction; and that petitioner's present incarceration does not satisfy the "in custody" requirement for purposes of any challenge to the BA 362256 conviction. (*See* Order: Dismissing Petition for Writ of Habeas Corpus with Prejudice; and Denying Certificate of Appealability, filed June 18, 2013 in Case No. CV 13-4290.)

For the same reasons previously articulated by the Court, this Court lacks jurisdiction over petitioner's claim because he does not satisfy the "in custody" requirement of 28 U.S.C. § 2254(a). Therefore, the petition should be summarily dismissed.

Moreover, given that petitioner has been warned that his filing of any further habeas petitions challenging the conviction in BA362256 would result in sanctions and given petitioner's disregard of this warning, it is appropriate to

1 require that petitioner obtain permission from this Court before he be allowed to 2 file any additional challenges to the BA362256 conviction. 3 Therefore, IT IS ORDERED that Judgment be entered dismissing the 4 instant petition without prejudice. 5 In addition, pursuant to Rule 11(a) of the Rules Governing Section 2254 6 Cases in the United States District Courts, the Court has considered whether a 7 certificate of appealability is warranted in this case. See 28 U.S.C. § 2253(c)(2); Slack v. McDaniel, 529 U.S. 473-484-85, 120 S. Ct. 1595, 1604 (2000). The 8 9 Court concludes that a certificate of appealability is unwarranted and, therefore, a 10 certificate of appealability is DENIED. 11 In addition, given petitioner's repeated abuse of the writ with respect to the 12 conviction sustained in BA362256, the Clerk of Court is directed not to accept 13 further filings of habeas corpus petitions from petitioner challenging the 14 conviction and/or sentence sustained in BA362256 without payment of a filing fee and prior authorization from a District Judge or Magistrate Judge issued upon a 15 16 showing of evidence supporting a claim. 17 18 **DATED:** August 31, 2016 19 STEPHEN V. WILSON 20 United States District Judge 21 22 Presented by: 23 24 25 26 FREDERICK F. MUMM United States Magistrate Judge

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